

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

JOSE JULIAN CRUZ BERRIOS
Plaintiff,

v.

PUERTO RICO DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.
Defendant.

CIVIL NO. 16-3155 (PAD)MEL

STATEMENT OF UNCONTESTED MATERIAL FACTS

TO THE HONORABLE COURT:

COMES NOW, co-defendants, **Department of Correction and Rehabilitation of the Commonwealth of Puerto Rico** (“DCR”), **Pedro Nieves Mercado, Francisco Matias Ramos, Monserrate Garcia, Javier Vargas Casillas, Wanda Montañez Santiago, Fernández Troche Rivera, Emmanuel Tirado Carrillo, Wilfredo Jimenez Rodríguez, Javier Luna, Héctor Santiago, Walter Soto Hernández, David Águila Rodríguez and Marcos Cruz Díaz**, through the undersigned attorney, who respectfully ALLEGES and PRAYS as follows:

1. Mr. Cruz-Berrios is an inmate under the custody of the DCR, incarcerated at the “Bayamon” 501 Correctional Institution. (**ECF no. 2** pg. 6 at 3.1).
2. Mr. Cruz has diabetes Mellitus, Type 2. (**ECF no. 2** pg. 14 at 4.1).
3. Mr. Cruz has a special medical diet low in sodium and of 2,2000 calories a day which includes snacks. (**ECF no. 2** pg. 14 at 4.1 and 4.3).
4. In addition, Mr. Cruz has diabetic neuropathy. (**ECF no. 2** pg. 14 at 4.4).
5. On August 29, 2017, Dr. Ilia Torres Mojica, the Medical Services Corporate Director for Correctional Health Services Corp. provided a certification that detailed the medical

treatments followed for Mr. Cruz. (**ECF no. 32-1**, Exhibit 1 pg. 1-3; **see also ECF no. 98** Exhibit 1 DCR Official Document, Certification dated August 29, 2017).

6. Mr. Cruz has received monthly monitoring and treatment for his medical conditions in the Bayamón Correctional Complex Chronic Conditions Clinics. (**ECF no. 32-1**, Exhibit 1 pg. 1 at 3; **see also ECF no. 98** Exhibit 1 DCR Official Document, Certification dated August 29, 2017).
7. Mr. Cruz receives periodical follow-ups in external clinics for medical services in endocrinology, gastroenterology, urology, podiatrist and psychiatrist. (**ECF no. 32-1**, Exhibit 1 pg. 1 at 4).
8. Mr. Cruz also receives medical treatment for his mental health conditions. (**ECF no. 32-1**, Exhibit 1 pg. 2 at 7; **see also ECF no. 98** Exhibit 1 DCR Official Document, Certification dated August 29, 2017).
9. Mr. Cruz has continuous access to medical services. (**ECF no. 32-1**, Exhibit 1 pg. 2 at 8; **see also ECF no. 98** Exhibit 1 DCR Official Document, Certification dated August 29, 2017)
10. The insulin was administrated to Mr. Cruz per his doctor's ordered. (**ECF no. 32-1**, Exhibit 1 pg. 2-3 at 9-13; **see also ECF no. 98** Exhibit 1 DCR Official Document, Certification dated August 29, 2017).
11. On August 31, 2017, Mr. Cruz rejected to submit himself to an appointment that was scheduled with a Podiatrist. (**ECF no. 34**, Exhibit 1 pg. 1).
12. On May 17, 2019, Dra. Gladys Quiles Santiago, the Medical Services Director of Bayamón Correctional Complex, certified that in compliance with doctor orders, Mr. Cruz has been receiving medical treatment for his physical and mental conditions. (**ECF no. 82**, Exhibit

3 pg. 1 at 7; **see also ECF no. 98** Exhibit 2 DCR Official Document, Certification dated May 17, 2019).

13. Mr. Cruz in many occasions has refused medical treatment and to follow the medical diet per his doctors' orders. (**ECF no. 82**, Exhibit 3 pg. 2 at 12; **see also ECF no. 98** Exhibit 2 DCR Official Document, Certification dated May 17, 2019).
14. The patient has a cane that assist him in walking and no other equipment was established as needed. (**ECF no. 82**, Exhibit 3 pg. 2 at 9; **see also ECF no. 98** Exhibit 2 DCR Official Document, Certification dated May 17, 2019).
15. In Puerto Rico, any member of the correctional population seeking administrative remedies must comply with the grievance procedure established by Regulation 8583 (Rules VII to XV) (**See ECF no. 98** Exhibit 3 Regulation).
16. Mr. Cruz-Berrios began the administrative grievance process in five (5) occasions with the *Request for Administrative Remedy*, nevertheless, in none of those requests he filed a *Request for Reconsideration*. (**See ECF no. 98** Exhibit 4 DCR Official Document, administrative remedies Certification dated November 13, 2019).
17. Plaintiff did not seek judicial review before the Supreme Court of Puerto Rico, prior to the filling of this action. (**See ECF no. 98** Exhibit 5 Supreme Court Certification dated November 22, 2019).
18. On January 9th, 2015, Mr. Cruz filed *Request for Administrative Remedy* number Q-032-15. (**See ECF no. 98**, Exhibit 4 DCR Official Document, Certification pg. 1 and 3)
19. On December 1st, 2015, Mr. Cruz filed *Request for Administrative Remedy* number B-2599-15. (**See ECF no. 98**, Exhibit 4 DCR Official Document, Certification pg. 2 and 3)

20. On June 8, 2017, Mr. Cruz filed *Request for Administrative Remedy* number B-860-17.
(See ECF no. 98, Exhibit 4 DCR Official Document, Certification pg. 2 and 3)
21. On May 3, 2017, Mr. Cruz filed *Request for Administrative Remedy* number B-687-17.
(See ECF no. 98 See Exhibit 4 DCR Official Document, Certification pg. 2 and 3).
22. On May 3, 2017, Mr. Cruz filed *Request for Administrative Remedy* number B-686-17.
(See ECF no. 98, Exhibit 4 DCR Official Document, Certification pg. 2 and 3).
23. The Medical certification signed by Dr. Gladys Quiles Santiago, the Medical Director at Physician Correctional, dated November 21, 2019, demonstrates that Plaintiff currently continues to receive medical treatment and monitoring for his health conditions. **(See ECF no. 98** Exhibit 6 DCR Official Document, Certification dated November 21, 2019).